

FEDERAL REGISTER

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Washington, Tuesday, August 20, 1940

The President

EXECUTIVE ORDER

SUSPENDING AND MAKING INOPERATIVE THE EXECUTIVE ORDER OF JANUARY 17, 1873, AS AMENDED, INsofar AS THE UNITED STATES CIVIL SERVICE COMMISSION SHALL, BY REGULATION, AUTHORIZE APPOINTMENTS TO POSITIONS DIRECTLY CONCERNED WITH NATIONAL DEFENSE

By virtue of and pursuant to the authority vested in me by section 1753 of the Revised Statutes of the United States (U.S.C., title 5, sec. 631) and as President of the United States, it is ordered that the Executive Order of January 17, 1873, as amended, prohibiting, with certain exceptions, Federal officers and employees from holding state, territorial and municipal offices, be, and it is hereby, suspended and made inoperative insofar as the United States Civil Service Commission shall, by regulation, authorize appointments to positions directly concerned with national defense.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

August 15, 1940.

[No. 8516]

[F. R. Doc. 40-3433; Filed, August 16, 1940; 1:40 p. m.]

EXECUTIVE ORDER

CHANGING THE NAME OF THE DELTA MIGRATORY WATERFOWL REFUGE TO DELTA NATIONAL WILDLIFE REFUGE AND ADDING CERTAIN LANDS

LOUISIANA

By virtue of and pursuant to the authority vested in me as President of the United States and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222, 16 U.S.C. 715), it is ordered as follows:

Section 1 The name of the Delta Migratory Waterfowl Refuge, in Plaquemines Parish, Louisiana, established by Executive Order No. 7229, of November

19, 1935, and enlarged by Executive Orders Nos. 7383, of June 5, 1936, and 7538, of January 19, 1937, is hereby changed to Delta National Wildlife Refuge.

Sec. 2 Subject to valid rights, all lands owned or controlled by the United States within the following-described area, comprising approximately 41,550 acres, in Plaquemines Parish, Louisiana, are hereby included in and reserved as a part of the refuge: *Provided*, That any private lands within the area described shall become a part of the refuge upon acquisition of title thereto or control thereof by the United States:

St. Helena Meridian

T. 20 S., R. 18 E., radial secs. 38 to 48, inclusive, all;
T. 21 S., R. 18 E., radial secs. 1 to 7, inclusive, all;
T. 20 S., R. 19 E., radial secs. 1 to 11, inclusive, all;
T. 21 S., R. 19 E., radial secs. 1 to 12, inclusive, 27, 28, 29, 33, 34, 35, 37, 38, 40, 41, 43, 45, 48, and 49, all;
T. 22 S., R. 19 E., radial secs. 1, 3, 5, 7, and 10 to 14, inclusive, all;

and the following-described lands surveyed by the State of Louisiana, plat approved by the Chief State Engineer, June 1936:

T. 20 S., R. 19 E., secs. 1, 2, 9, 10, 11, 12, 15, 16, and 17, all within the Grand Prairie Levee District established by the Board of State Engineers in November 1932;
sec. 20, SW $\frac{1}{4}$;
sec. 24, all southeast of Main Pass;
sec. 25, all;
sec. 26, all southeast of Main Pass;
sec. 29, NE $\frac{1}{4}$ and S $\frac{1}{2}$;
sec. 33, W $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
sec. 34, all southeast of Main Pass;
secs. 35 and 36, all;
T. 21 S., R. 19 E., secs. 1 and 2, all;
sec. 3, all southeast of Main Pass;
sec. 5, all;
secs. 10 to 15, inclusive, all;
secs. 22 to 26, inclusive, all;
T. 19 S., R. 20 E., sec. 32, all;
T. 20 S., R. 20 E., sec. 5, all;
sec. 7, all southeast of Main Pass;
secs. 8, 9, 15, 16, and 17, all;
sec. 18, all southeast of Main Pass, and that part of the SW $\frac{1}{4}$ northwest of Main Pass;
secs. 19 to 23, inclusive, all;
secs. 26 to 35, inclusive, all;
T. 21 S., R. 20 E., all fractional.

The Delta National Wildlife Refuge, as enlarged by this order, consists of all lands owned or controlled by the United

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States within the following-described area, comprising approximately 56,200 acres:

St. Helena Meridian

T. 20 S., R. 18 E., radial secs. 38 to 48, inclusive, all;
T. 21 S., R. 18 E., radial secs. 1 to 7, inclusive, all;
T. 20 S., R. 19 E., radial secs. 1 to 11, inclusive, all;
T. 21 S., R. 19 E., radial secs. 1 to 52, inclusive, all;
T. 22 S., R. 19 E., radial secs. 1 to 14, inclusive, all;

and the following-described lands surveyed by the State of Louisiana, plat approved by the Chief State Engineer, June 1936:

T. 20 S., R. 19 E., secs. 1, 2, 9 to 17, inclusive, 19 to 30, inclusive, and 32 to 36, inclusive, all;
T. 21 S., R. 19 E., secs. 1 to 5, inclusive, 9 to 15, inclusive, and 22 to 26, inclusive, all;
T. 19 S., R. 20 E., sec. 32, all;
T. 20 S., R. 20 E., all fractional;
T. 21 S., R. 20 E., all fractional.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 16, 1940.

[No. 8517]

[F. R. Doc. 40-3442; Filed August 17, 1940; 11:38 a. m.]

EXECUTIVE ORDER

MODIFICATION OF EXECUTIVE ORDER NO. 2123 OF JANUARY 20, 1915, RESERVING CERTAIN PUBLIC LAND AS A NATIVE BIRD REFUGE

WASHINGTON

By virtue of the authority vested in me as President of the United States, it is ordered that Executive Order No. 2123 of January 20, 1915, reserving certain public land in the State of Washington as a refuge, preserve and breeding ground for native birds, known as Dungeness Spit Reservation, be, and the same is hereby, modified to the extent necessary to permit the Navy Department to have primary jurisdiction over

the following-described land for naval purposes:

Willamette Meridian

T. 31 N., R. 4 W.,
Sec. 13, lots 1, 2, 3, and 4,
Sec. 14, lot 1,
Sec. 24, lots 1, 2, 3, 4, and 5,
Sec. 25, lot 5,
Sec. 26, lot 3,
aggregating 147.50 acres.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 16, 1940.

[No. 8518]

[F. R. Doc. 40-3440; Filed, August 17, 1940; 11:38 a. m.]

EXECUTIVE ORDER

RESERVING CERTAIN TOWNSITE LOTS FOR THE USE OF THE FOREST SERVICE

WYOMING

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, and subject to valid existing rights, it is ordered that the following-described townsite lots are hereby reserved and set apart for the use of the Forest Service, Department of Agriculture, for administrative purposes:

Esterbrook Townsite

Block 1, lots 1 to 5, inclusive,
Block 2, lots 1 to 5, inclusive, lots 16 to 20, inclusive,
Block 3, lots 1 to 5, inclusive, lots 16 to 20, inclusive.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 16, 1940.

[No. 8519]

[F. R. Doc. 40-3441; Filed, August 17, 1940; 11:38 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

CHAPTER I—FARM CREDIT ADMINISTRATION

[FCA 195]

FEDERAL LAND BANK OF OMAHA

REAMORTIZATION FEES

Part 28 of Title 6, Code of Federal Regulations, is amended by adding the following section:

§ 28.5 *Reamortization fees.* Applicants for reamortization of bank loans and Commissioner loans will not be required to pay a reamortization fee: *Provided, however,* That applicants will be required to pay such out-of-pocket costs as recording fees, notarial fees and other incidental items. (Sec. 13 "Thirteenth", as added by Sec. 4, 47 Stat. 1548, Secs. 1, 2, 48 Stat. 344, 345; 12 U.S.C. 781 "Thirteenth", 1020, 1020a, and Sup.; 6 CFR

19.4043, 4 P.R. 4942 DL.) (Res. Ex. Com., August 6, 1940)

[SEAL] THE FEDERAL LAND
BANK OF OMAHA,
By CHAS. McCUMSEY, President.

[F. R. Doc. 40-3457; Filed, August 19, 1940;
11:43 a. m.]

TITLE 7—AGRICULTURE CHAPTER I—AGRICULTURAL MARKETING SERVICE

PART 26—GRAIN STANDARDS

SUBPART—OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR SOYBEANS¹

By virtue of the authority vested in the Secretary of Agriculture by the United States Grain Standards Act, approved August 11, 1916 (U. S. Code, Title 7, ch. 3, sec. 74), as amended by the act approved July 18, 1940 (Public No. 750, 76th Congress), I, Grover B. Hill, Acting Secretary of Agriculture, do hereby fix, establish, promulgate, and give public notice of the following official grain standards of the United States for soybeans, which shall become effective on the twentieth day of November 1940. Such standards shall constitute an amendment to Part 26, Chapter I, Title 7, of the Code of Federal Regulations by the addition of the following sections:

§ 26.601 Terms defined. For the purpose of the official grain standards of the United States for soybeans:

Soybeans. Soybeans shall be dry threshed soybeans which contain not more than 25 percent of foreign material.

Classes. Soybeans shall be divided into five classes as follows: Class I, Yellow Soybeans; Class II, Green Soybeans; Class III, Brown Soybeans; Class IV, Black Soybeans; and Class V, Mixed Soybeans.

Grades. Soybeans shall be graded and designated according to the respective grade requirements of the numerical grades and Sample grade of their appropriate class.

§ 26.602 Yellow soybeans (class I) defined. This class shall include all varieties of yellow soybeans and may include not more than 5 percent of soybeans of other colors. A slight tinge of green or olive green on soybeans otherwise yellow shall not affect their classification as Yellow Soybeans.

§ 26.603 Green soybeans (class II) defined. This class shall include all varieties of green soybeans and may include not more than 5 percent of soybeans of other colors.

§ 26.604 Brown soybeans (class III) defined. This class shall include all varieties of brown soybeans and may include not more than 5 percent of soybeans of other colors.

¹ The specifications of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

§ 26.605 Black soybeans (class IV) defined. This class shall include all varieties of black soybeans and may include not more than 5 percent of soybeans of other colors.

§ 26.606 Mixed soybeans (class V) defined. This class shall include all mixtures of soybeans not provided for in the classes Yellow Soybeans, Green Soybeans,

Brown Soybeans, and Black Soybeans. Black Eyebrow and other bicolored varieties shall be classified as Mixed Soybeans.

§ 26.607 Soybeans; grade requirements. Grade requirements for the classes Yellow Soybeans, Green Soybeans, Brown Soybeans, Black Soybeans, and Mixed Soybeans:

Grade No.	Condition and general appearance	Minimum test weight per bushel	Maximum limits of—				
			Moisture	Splits	Damaged soybeans	Foreign material	Other colors ¹
1	Shall be cool, of natural odor, and of good natural color.	Pounds 56	Pct. 15	Pct. 1.0	Pct. 1.5	Pct. 0.5	Pct. 1.0
2	Shall be cool and of natural odor and may be slightly stained or mottled.	54	15	10.0	3.0	2.0	3.0
3	Shall be cool and of natural odor and may be stained or mottled.	52	16.5	20.0	5.0	4.0	5.0
4	Shall be cool and may be badly stained or mottled and may be slightly frosted or immature.	50	18	30.0	8.0	6.0	5.0

Sample grade... Sample grade shall include soybeans of any one of the classes Yellow Soybeans, Green Soybeans, Brown Soybeans, Black Soybeans, or Mixed Soybeans, which do not come within the requirements of any of the grades from No. 1 to No. 4, inclusive; or which contain stones and/or cinders; or which are musty, sour, heating, or hot; or which are infested with live weevils or other insects injurious to stored grain; or which have any commercially objectionable foreign odor; or which are otherwise of distinctly low quality.

¹ The maximum limits here given for "other colors" shall not apply to the grading of "Mixed Soybeans."

§ 26.608 Grade factors; definitions—
(a) **Basis of grade determinations.** Each determination of class, general appearance, splits, damaged soybeans, and other colors, shall be upon the basis of the soybeans after the removal of foreign material. All other determinations shall be upon the basis of the soybeans including the foreign material.

(b) **Percentages.** Percentages, except in the case of moisture, shall be percentages ascertained by weight.

(c) **Percentage of moisture.** Percentage of moisture shall be that ascertained by the water oven and the method of use thereof described in Service and Regulatory Announcements No. 147 of the Bureau of Agricultural Economics of the United States Department of Agriculture, or ascertained by any device and method which give equivalent results in the determination of moisture.

(d) **Test weight per bushel.** Test weight per bushel shall be the weight per Winchester bushel, as determined by the testing apparatus and the method of use thereof described in Bulletin No. 1065, dated May 18, 1922, issued by the United States Department of Agriculture, or as determined by any device and method that give equivalent results in the determination of test weight per bushel.

(e) **Damaged soybeans.** Damaged soybeans shall be soybeans and pieces of soybeans which are materially damaged by weather, frost, heat, insects, disease, or otherwise.

(f) **Splits.** Splits shall be sound pieces of soybeans, but shall not include soybeans with cracked skins only, or with less than one-fourth of the bean broken off.

(g) **Foreign material.** Foreign material shall be all matter other than soybeans, and shall include all undeveloped

shriveled soybeans and pieces of soybeans which will pass through a metal sieve perforated with round holes $\frac{19}{64}$ inch in diameter, and all matter other than soybeans that remains on such sieve after screening. Sound fully developed soybeans which pass through such sieve shall not be considered as foreign material.

Done at Washington, D. C., this 16th day of August 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

GROVER B. HILL,
Acting Secretary.

[F. R. Doc. 40-3436; Filed, August 17, 1940;
10:45 a. m.]

CHAPTER IX—SURPLUS MARKET- ING ADMINISTRATION

[Order No. 51]

MARKETING ORDERS

PART 951—TOKAY GRAPES GROWN IN THE STATE OF CALIFORNIA

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951.2 Committees.

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- Selection of initial members of Industry Committee.
- Nomination of successors to initial members of Industry Committee.
- Eligibility for membership on Industry Committee.
- Selection of successors to initial members of Industry Committee.
- Failure to nominate.
- Qualification.
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 951.18 Effect of termination or amendment.

Whereas, under the provisions of Public Act No. 10, (3d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of the act, issue orders regulating such handling of certain agricultural commodities (including Tokay grapes) as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities; and

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such orderly marketing conditions for Tokay grapes (hereinafter also referred to as "grapes") grown in the State of California as would establish prices to the producers of such grapes at a level that would give such grapes a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such grapes during the base period August 1919-July 1929, conducted a public hearing¹ at Lodi, California, on April 29, 1940, pursuant to due notice given to all interested parties on April 11, 1940, on a proposed order regulating such handling of such grapes as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such com-

merce in such grapes, at which hearing all interested persons in attendance were afforded due opportunity to be heard concerning the proposed order; and

Whereas, the Secretary has found and proclaimed² that the purchasing power of grapes grown in the State of California during the period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such grapes can be satisfactorily determined from available statistics of the Department of Agriculture for the period August 1919-July 1929, and that the period August 1919-July 1929 is the base period to be used in connection with this order in determining the purchasing power of such grapes; and

Whereas, the Secretary finds upon the basis of the evidence introduced at the hearing and the record thereof:

(1) That at the time of the hearing the prices received by the producers of such grapes were at a level that gave such grapes a purchasing power with respect to articles that the producers thereof buy, appreciably below the purchasing power of such grapes during the base period;

(2) That the regulation of shipments of such grapes, as prescribed herein, will serve to prevent marked fluctuations in prices to the producers thereof, and will establish and maintain a more stabilized market for such grapes, tending to establish prices to the producers thereof at a level that will give such grapes a purchasing power with respect to articles that the producers thereof buy, equivalent to the purchasing power of such grapes during the base period;

(3) That the terms and provisions of this order prescribe, so far as practicable, such different terms, applicable to different production areas, as are necessary to give due recognition to the differences in production and marketing of such grapes;

(4) That this order is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production area would not effectively carry out the declared policy of the act; and

(5) That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to grapes grown in the State of California by establishing and maintaining such orderly marketing conditions therefor as will establish prices to the producers thereof at a level that will give such grapes a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such grapes in the base period, and by protecting the interest of the

consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers of such grapes above the level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary finds:

(1) That a marketing agreement regulating the handling of Tokay grapes grown in the State of California, executed on the 17th day of August 1940, upon which a hearing³ was held on April 29, 1940, was signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the grapes covered by this order) who, during the 1939 season, handled not less than fifty (50) percent of the volume of such grapes covered by this order;

(2) That this order regulates the handling of such grapes in the same manner as the aforesaid marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement;

(3) That the issuance of this order is favored by producers who, during the period of January 1, 1939, to December 31, 1939, both dates inclusive (which is hereby determined to be a representative period), produced for market within the State of California at least two-thirds ($\frac{2}{3}$) of the volume of grapes produced for market within such production area within the said period:

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that such handling of grapes grown in the State of California as is in the current of commerce between the State of California and any point outside thereof, or which directly burdens, obstructs, or affects such commerce in such grapes, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of this order.

§ 951.1 *Definitions.* As used herein the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States.

(b) "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended.

(c) "Person" means an individual, partnership, corporation, association, or any other business unit.

¹ 5 F.R. 1403.

² See page 2893.

³ 5 F.R. 1403.

(d) "Grapes" means and includes all strains of Tokay grapes grown in the State of California.

(e) "Grower" is synonymous with "producer" and means any person engaged in the production of grapes who, as the owner of the vineyard or as a tenant thereon, has a financial interest in the crop from such vineyard. As used in § 951.4 (c) hereof, "grower" shall also include the purchaser of a crop of grapes on the grapevines.

(f) "Handler" is synonymous with "shipper" and means any person (except a common carrier of, or an operator of a cold storage for, grapes owned by another person), who, as owner, agent, or otherwise, ships or handles grapes, or causes grapes to be shipped or handled, in fresh form, by rail, truck, boat, or any other means whatsoever.

(g) "Handle" is synonymous with "ship" and means to sell, transport, prepare for transportation (which shall include, but not be limited to, packaging or precooling), offer for transportation, load in a conveyance for transportation, or in any other way to place grapes in the current of commerce between the State of California and any point outside thereof, or so as directly to burden, obstruct, or affect such commerce.

(h) "Size", as used with reference to the size of grapes, means the weight of a bunch of grapes.

(i) "Standard package" means the package designated by the Industry Committee and approved by the Secretary.

(j) "Season" means the twelve-month period beginning April 1 of any year and ending March 31 of the following year, both inclusive.

(k) "District" means the applicable one of the following described subdivisions of the State of California:

(1) "Lodi District", which shall include the county of San Joaquin; and

(2) "Florin District", which shall include all of the counties in the State of California except San Joaquin.*

§ 951.2 *Committees*—(a) *Establishment of industry committee.* An Industry Committee consisting of seven (7) members, one for each of the election districts in Lodi District and one for the Florin District, is hereby established. There shall be an alternate for each member of the committee. The Lodi District shall be divided into the following election districts: (1) "Acampo Election District", which shall include the school districts of Acampo and Houston; (2) "Woodbridge Election District", which shall include the school districts of Woods and Liberty; (3) "Lafayette Election District", which shall include the school districts of Lafayette, Henderson, Turner, and Ray; (4) "Victor Election District", which shall include the

school districts of Bruella, Victor, and Lockeford; (5) "Alpine Election District", which shall include the school districts of Alpine and Lodi; and (6) "Live Oak Election District", which shall include all of the school districts in San Joaquin County other than those included in the Acampo, Woodbridge, Lafayette, Victor, and Alpine Election Districts.

(b) *Selection of initial members of industry committee.* The initial members of the Industry Committee and their respective alternates shall be selected by the Secretary as soon as possible after the effective date hereof. In selecting such members and their alternates, the Secretary shall make his selection upon the basis of the representation provided for in this section.

(c) *Nomination of successors to initial members of industry committee.* (1) Nominations for members and alternate members of the Industry Committee, subsequent to the initial members and alternates, shall be made at a meeting of growers in the Florin District and in each of the election districts in the Lodi District. Such meetings shall be called by the Industry Committee at such times (on or before March 1 of each season) and at such places within such districts as the said committee shall designate. The growers at each of such meetings shall select a chairman and secretary therefor. After nominations have been made, the chairman or the secretary of such meeting shall forthwith transmit to the Secretary his certificate showing the name of each person for whom votes have been cast, whether as member or as alternate for a member, and the number of votes received by each such person.

(2) In the nomination of members and alternate members of the Industry Committee, each grower shall, for each nominee for his district, be entitled to cast only one vote on behalf of himself, his agents, partners, and representatives; and only growers personally present at such meetings shall be entitled to vote. Each grower shall be entitled to vote only in one election district or in the Florin District.

(d) *Eligibility for membership on industry committee.* A person nominated or selected for membership on the Industry Committee shall be an individual grower who produced, during the previous season, at least fifty-one (51) percent of the grapes shipped by him during such season, or an officer, employee, or agent of an organization which produced, during the previous season, at least fifty-one (51) percent of the grapes shipped by such organization during such season.

(e) *Selection of successors to initial members of industry committee.* The Secretary shall select the successors to the initial members and alternate members of the Industry Committee, for each district, from the nominees elected by, or from among, the growers in such district; and such selection shall be upon

the basis of the representation provided for in this section.

(f) *Failure to nominate.* In the event nominations for members and alternate members of the Industry Committee are not made, pursuant to paragraph (c) of this section, on or before April 15 of the season for which such nominations should have been made, the Secretary may select the members and alternate members for such season without regard to nominations.

(g) *Qualification.* Each person selected as a member or an alternate member of the Industry Committee shall qualify by filing with the Secretary a written acceptance thereof before performing any of his duties hereunder.

(h) *Terms of office.* The initial members and alternate members of the Industry Committee shall hold office for a term beginning on the date of their selection by the Secretary and ending March 31, 1941, or until their successors are selected and have qualified. Members and alternate members selected subsequent to the initial members and alternate members shall serve during the season for which they have been selected and until their successors are selected and have qualified.

(i) *Alternate members.* An alternate for a member shall, in the event of such member's absence from a meeting of the Industry Committee, act in the place and stead of such member, and, in the event of such member's removal, resignation, disqualification, or death, shall act in the place and stead of such member until a successor for the unexpired term of such member has been selected.

(j) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or an alternate member of the Industry Committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member, a successor for the unexpired term of such person shall be nominated and selected in accordance with the provisions hereof, covering the nomination and selection of members and alternate members. If a successor for any such vacancy is not nominated within 20 days after such a vacancy occurs, the Secretary may select such successor, who shall have the same qualifications as his predecessor, without regard to nominations.

(k) *Compensation.* The members of the Industry Committee, and alternates when acting for members, shall serve without compensation; but they may be reimbursed for expenses necessarily incurred by them in attendance at each meeting and may be paid not in excess of five (5) dollars per diem for the performance of services, in addition to attendance at committee meetings, as requested by such committee.

(l) *Powers.* The Industry Committee shall have the following powers:

(1) to administer, as herein specifically provided, the terms and provisions hereof;

* §§ 951.1 to 951.18, inclusive, issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. sec. 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937), 7 U.S.C. sec. 601 et seq. (Supp. V, 1939).

(2) to make administrative rules and regulations in accordance herewith, and to effectuate the terms and provisions hereof;

(3) to receive, investigate, and report to the Secretary complaints of violation hereof; and

(4) to recommend to the Secretary amendments hereto.

(m) *Duties.* The duties of the Industry Committee shall be as follows:

(1) to act as intermediary between the Secretary and any grower or handler;

(2) to keep minutes, books, and records which will clearly reflect all of the acts and transactions of the Industry Committee, which minutes, books, and records shall be subject at all times to examination by the Secretary;

(3) to investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to grapes;

(4) to furnish to the Secretary such available information as the Secretary requests;

(5) to perform such duties as may be assigned to it, from time to time, by the Secretary in connection with the administration of Section 32 of the Act to amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, 74th Congress (August 24, 1935), as amended;

(6) to cause the books of the Industry Committee to be audited by one or more competent accountants at least once each season and at such other times as the Industry Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports;

(7) to select a chairman of the Industry Committee and such other officers as it may deem advisable;

(8) to defend all legal proceedings against any Industry Committee members (individually or as members), or any officers or employees of such committee, arising out of any act or omission made in good faith pursuant to the provisions hereof;

(9) to employ a confidential employee or employees who shall perform the services required of the confidential employee or employees by the provisions hereof; to employ such other employees as may be necessary, including a manager who shall, among other duties, act as the secretary of the Industry Committee, and such manager may be designated as confidential employee; to determine the salary and duties of such manager and other employees; to authorize, if the committee deems such to be necessary, the manager for and on behalf of the committee to employ temporarily, subject to such limitations and qualifications as may be specified by the committee, such other persons as may be deemed necessary and to determine the respective salaries (which shall be reasonable and within the limitations of

the budget and such other limitations as may be prescribed by the committee) and define the respective duties of such employees;

(10) to give the Secretary the same notice of meetings of the Industry Committee as is given to the members thereof;

(11) to submit to the Secretary for each season a budget of its expenses during such season;

(12) with the approval of the Secretary, to redefine the districts and election districts into which the State of California has been divided herein, or change the representation from any district or election district on the Industry Committee: *Provided*, That if any such changes are made, representation on such committee from the various districts shall be based, so far as practical, upon the proportionate quantity of grapes shipped from the respective districts during the two seasons immediately preceding the season during which such changes are made;

(13) to authorize, whenever the committee deems it advisable, an employee or employees of the committee to perform any ministerial duties of the committee, subject to the exceptions and limitations set forth herein: *Provided*, That such authorization by the committee shall specify the employee or employees and state definitely the limitations of the authority thus vested in the respective employee or employees: *Provided, further*, That the committee shall retain concurrent authority in connection with any such duties and shall not authorize any employee or employees to perform (i) the duties of the committee relating to the recommendations to the Secretary for the regulation of shipments pursuant to §§ 951.4 and 951.5 hereof; or (ii) the duties or authority of the committee relating to the establishment of rules and regulations pursuant to the provisions and subject to the limitations set forth herein;

(14) to establish such other committees or subcommittees to aid the Industry Committee in the performance of its duties hereunder as the Industry Committee may deem it advisable; and

(15) each season, prior to making any recommendation to the Secretary for a regulation of shipments pursuant to §§ 951.4 and 951.5 hereof, to determine the marketing policy to be followed during the ensuing season and to submit a report of such policy to the Secretary; said policy report to contain, among other provisions, information relative to the estimated total production and shipments of grapes by districts; the expected general quality and size of grapes; possible or expected demand conditions of different market outlets; supplies of competitive commodities; an appropriate analysis of the foregoing factors and conditions; and the type of regulation of shipments of grapes expected to be recommended.

(n) *Procedure.* (1) A quorum of the Industry Committee shall consist of five (5) members or alternates then serving in the place and stead of any members in attendance at the meeting, and all decisions of the Industry Committee shall require the affirmative vote of not less than five (5) members.

(2) The members of the Industry Committee, including successors and alternates, and any agent or employee appointed or employed by the Industry Committee, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the Industry Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

(o) *Funds and property.* (1) All funds received by the Industry Committee pursuant to the provisions hereof shall be used solely for the purposes herein specified; and the Secretary may require the Industry Committee and its members to account for all receipts and disbursements.

(2) Upon the death, resignation, removal, or expiration of the term of office of any member of the Industry Committee, all books, records, funds, and other property in his possession or under his control as such members, which relate to the business of the said committee, shall be delivered to his successor in office or to the committee, and such assignments and other instruments shall be executed as may be necessary to vest in such successor or in the committee full title to such books, records, funds, and property.

(p) *Shippers' Advisory Committee.* (1) A Shippers' Advisory Committee consisting of seven (7) members, selected by the handlers in accordance with the provisions hereof, is hereby established.

(2) Six (6) members of the Shippers' Advisory Committee shall be elected by handlers at a general meeting of all handlers, at which each handler shall have one vote. Three (3) of such members shall be elected by handlers who, during the preceding season, individually shipped 250,000 or more standard packages or the equivalent thereof of grapes; and three (3) of such members shall be elected by handlers who, during the preceding season, individually shipped less than 250,000 standard packages or the equivalent thereof of grapes. The seventh member of such committee shall be elected jointly by the members of the Industry Committee and the other six (6) members of the Shippers' Advisory Committee.

(3) Any individual person, except a person who is a member or an alternate

member of the Industry Committee, or whose agent or employee is a member of such committee, shall be eligible for membership on the Shippers' Advisory Committee.

(4) The initial meeting of handlers, at which members of the Shippers' Advisory Committee are to be elected, shall be called and conducted by the Secretary or his agent as soon as possible after the selection of initial members of the Industry Committee. Each handler who desires to vote at the said meeting for the election of members of such committee shall file with the Secretary or his agent an affidavit stating his shipments of grapes during the preceding season. Election meetings held subsequent to the initial meeting shall be called and conducted by the Industry Committee not later than August 1 of each year; and each handler who desires to vote thereat shall file, with the Industry Committee, a statement of his shipments of grapes during the season immediately preceding the season during which such meeting is held.

(5) The Shippers' Advisory Committee may attend each meeting of the Industry Committee held to consider recommendations with respect to regulations of shipments of grapes pursuant to §§ 951.4 and 951.5 hereof. The Shippers' Advisory Committee may advise the Industry Committee on matters relating to such recommendations, but shall have no vote with the Industry Committee in any matter.*

§ 951.3 Expenses and assessments—

(a) *Expenses.* The Industry Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions hereunder. The funds to cover such expenses shall be acquired by the levying of assessments as provided in this section.

(b) *Assessments.* Each handler who first ships grapes shall, with respect to each such shipment, pay to the Industry Committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be necessarily incurred by the said committee for its maintenance and functioning during such season. Such handler's pro rata share of such expenses shall be that proportion thereof which the total quantity of grapes shipped by such handler as the first shipper thereof during such season is of the total quantity of grapes shipped by all handlers as the first shippers thereof during such period. The Secretary shall fix the rate of assessment to be paid by such handlers, which rate may be adjusted from time to time by the Secretary in order to cover any later finding by the Secretary of the estimated expenses or the actual expenses of the Industry Committee during such season. Any such handler who ships grapes for the account of a grower may deduct, from the account sales covering such shipment or shipments, the amount of assessments levied on such grapes.

(c) *Handler accounts.* (1) At the end of each season the Industry Committee shall credit each handler with any amount paid by such handler in excess of his pro rata share of the expenses or shall debit such handler with the amount by which his pro rata share exceeds the amount paid by him. Any such debits shall become due and payable upon demand of the Industry Committee.

(2) The Industry Committee may, subject to the approval of the Secretary, maintain a suit in its own name or in the names of its members for the collection of any handler's pro rata share of expenses.*

§ 951.4 Regulation by grades and sizes—(a) *Recommendation of the Industry Committee.* Whenever the Industry Committee deems it advisable to limit the shipment of grapes, pursuant to this section, it shall recommend to the Secretary the particular grades and sizes deemed advisable by it to be shipped during a specified period. At the time of submitting any such recommendation, the Industry Committee shall submit to the Secretary the data and information upon which it acted in making such recommendation, including factors affecting the supply of and the demand for grapes by grades and sizes thereof, and such other information as the Secretary may request. The Industry Committee shall promptly give adequate notice to handlers and growers of any such recommendation submitted by it to the Secretary.

(b) *Establishment of regulation.* Whenever the Secretary finds, from the recommendation and information submitted by the Industry Committee, or from other available information, that to limit, from either or both districts, the shipment of grapes to particular grades and sizes would tend to effectuate the declared policy of the act, he shall so limit the shipments of grapes during a specified period. The Secretary shall immediately notify the Industry Committee of the issuance of such regulation, and the said committee shall promptly give adequate notice thereof to handlers and growers.

(c) *Exemptions.* (1) In the event of a regulation of shipments pursuant to this section, and whenever the Industry Committee shall find that one-half ($\frac{1}{2}$) of the estimated shipments of grapes for the season have been made in the Lodi District or one-fourth ($\frac{1}{4}$) of the estimated shipments of grapes for the season have been made in the Florin District, the said committee shall (or prior thereto it may) adopt and announce the procedural rules pursuant to which exemption certificates will be issued to growers. At the time of, or prior to, making such finding, the said committee shall determine for each district the percentage which the grades and sizes of grapes produced in each such district, and permitted to be shipped under such regu-

lation, is of the quantity of grapes produced in the respective district which would be shipped in the absence of such regulation, and shall forthwith announce this percentage for each district.

(2) Subsequent to the finding required under paragraph (c) (1) of this section, the Industry Committee shall, with respect to each district, grant an exemption certificate to any grower who submits proof satisfactory to the said committee to the effect that the respective grower will be prevented, because of such regulation, from shipping as large a percentage of his grapes as the average of all growers in his district: *Provided*, That if the said committee shall determine that, by reason of general crop failure, or other unusual conditions within a particular district, it would not be feasible and would not be equitable to issue exemption certificates on such basis, the said committee may determine that such certificate shall be issued on the basis of the average of all growers, without regard to the average for a district. In considering whether an exemption certificate should be issued and, if so, the quantity of grapes which should be exempted, the Industry Committee shall take into consideration only the grades and sizes of grapes which would be shipped in the absence of any regulation.

(3) Any such exemption certificate shall permit the respective grower to whom the certificate may be issued to ship or have shipped for him a quantity of the restricted or prohibited grade and size of grapes sufficient to enable him to ship or have shipped for him as large a proportion of his grapes which he would have shipped, in the absence of regulation, as the average for all growers in his district or in both districts if such is the determination of the Industry Committee.

(4) The Industry Committee may authorize an employee or employees to receive applications for exemption certificates, make the necessary investigation in regard to whether an exemption certificate should be issued, and, if so, the quantity of grapes which would be thus exempted, and issue for and on behalf of the Industry Committee an exemption certificate: *Provided*, That the said committee shall not authorize any employee or employees to perform the duties or functions with respect to the determinations of (i) the grades or sizes of grapes which would be shipped in the absence of any regulation; or (ii) the percentage, for any district or both districts, that the quantity of grapes permitted to be shipped pursuant to the regulation is of the quantity which would have been shipped in the absence of regulation; or (iii) whether exemption certificates shall be issued on the basis of the average shipments in both districts.

(5) If any grower is dissatisfied with the determination of an employee or employees who have been authorized to

issue exemption certificates and who have exercised jurisdiction with regard to the application submitted by the respective grower, such grower may appeal to the Industry Committee; *Provided*, That such appeal must be taken promptly after the determination by the respective employee or employees. If any grower is dissatisfied with the determination of the Industry Committee with respect to an exemption certificate or the application for an exemption certificate, or with regard to an appeal by said grower to the Industry Committee from the action of an employee or employees as aforesaid, such grower may appeal to the Secretary; and such appeal to the Secretary shall be taken promptly after the determination by the Industry Committee. Upon an appeal to the Secretary, the Secretary may modify or cancel the issuance of an exemption certificate or may authorize the issuance of an exemption certificate. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary; and any determination made by the Secretary with respect to an exemption certificate or the application for an exemption certificate shall be final.

(6) The Industry Committee shall, from time to time, submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of grapes thus exempted, and such additional information with respect thereto as the Secretary may request.

(d) *Inspection and certification.* During any period in which shipments of grapes are regulated pursuant to this section, each handler shall, prior to making each shipment of grapes, cause such shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Promptly thereafter, each such shipper shall submit or cause to be submitted to the Industry Committee a copy of the shipping point inspection certificate issued by the Federal-State Inspection Service showing the grade and size of the grapes contained in such shipment; *Provided*, That this provision shall not be applicable to a handler who ships grapes which have been so inspected and the copy of such inspection certificate has been submitted to the Industry Committee.*

§ 951.5 *Regulation of daily shipments*—(a) *Definitions.* As used in this section, the following terms have the following meanings:

(1) "Railroad assembly point" means any railroad concentration point designated by the Industry Committee.

(2) "Cold storage assembly point" means any cold storage plant in the State of California.

(3) "Arrive" or "arrival" means (i) the actual time of arrival of a railroad car of grapes at a railroad assembly point, if such car is not precooled at such assembly point; or (ii) the actual time when precooled of a railroad car of

grapes is completed, if such car is precooled at a railroad assembly point; or (iii) such time subsequent to the actual delivery of a car of grapes at the cold storage assembly point, as the Industry Committee may prescribe by rules and regulations.

(4) "Cold storage" means retention of grapes under refrigeration in a storage warehouse for such period of time, at such place, and under such conditions as the Industry Committee may prescribe by rules and regulations.

(5) "Car" or "carload" means such quantity of grapes as may be specified by rules and regulations adopted by the Industry Committee.

(6) "Advisable" means the quantity of grapes advisable for shipment each day during a regulation period.

(7) "Handler" is synonymous with "shipper" and means any person (except a common carrier of, or an operator of a cold storage for, grapes owned by another person), who, as owner, agent, or otherwise, ships or handles grapes, or causes grapes to be shipped or handled.

(8) "Handle" is synonymous with "ship" and means to transport, prepare for transportation (which shall include, but not be limited to, packaging and precooling), or load in a conveyance for transportation, in fresh form, by railroad, in the current of commerce between the State of California and any point outside thereof on the continent of North America, or so as directly to burden, obstruct, or affect such commerce.

(9) "Grapes controlled" means grapes to which the handler has legal title or which the handler has been authorized by the owner to ship.

(b) *Recommendation of regulation.* The Industry Committee shall, from time to time, investigate the supply and demand conditions for grapes. Whenever the said committee determines that

(i) the supply of grapes for shipment exceeds the demand therefor or the rate of flow of shipments to markets will be irregular, which may result in the quantity shipped during certain parts of a season being in excess of the demand for grapes at such times; and (ii) the regulation of shipments of grapes pursuant to section 951.4 hereof will be inadequate or insufficient to correct such conditions; and (iii) it is advisable to limit the total daily shipments of grapes during any specified period, the said committee shall recommend to the Secretary the establishment of a regulation period during which the shipment of grapes shall be limited as herein provided. At the time of making such recommendation, the Industry Committee shall report to the Secretary (i) the period during which the proposed regulation is to be effective; (ii) the expected maximum and average daily shipments of grapes during such period; (iii) the total quantity of grapes advisable to be shipped each day during the regulation period; and (iv) the information upon

which such recommendation and reports are based, together with such other information as the Secretary may request.

(c) *Establishment of regulation.* Whenever the Secretary shall find, from the recommendation, reports, and the information submitted by the Industry Committee, or other available information, that to limit the total quantity of grapes that may be shipped each day, as provided in this section, will tend to effectuate the declared policy of the act, he shall establish such a regulation for a specified period. At the time of the establishment of such limitation, the Secretary shall determine (i) the period of time during which daily shipments of grapes are to be limited and (ii) the total quantity of grapes advisable to be shipped each day during the specified regulation period. The Secretary shall promptly notify the Industry Committee of the establishment of the regulation period, and such committee shall give such notice thereof as may be reasonably calculated to bring such regulation to the attention of all interested persons.

(d) *Retention of cars in assembly points.* During any regulation period established pursuant to paragraph (c) of this section, each handler shall file with the carrier an order directing it to stop each carload of the respective handler's grapes at a railroad assembly point, or, if any handler desires to have any shipment of grapes regulated at a cold storage assembly point, such handler may deliver such shipment to the cold storage assembly point. No handler shall have the shipment of any carload of grapes continued from an assembly point until the carload is released by the Industry Committee from the railroad assembly point or from the cold storage assembly point, as the case may be. Grapes released by the committee from cold storage assembly points shall not be detained at railroad assembly point; *Provided*, That the provisions of this paragraph shall not be applicable to grapes shipped in railroad cars at a time when a regulation period, established pursuant to paragraph (c) of this section, is not in effect.

(e) *Reports by handlers.* During a regulation period established pursuant to this section, each handler shall report promptly, or cause to be reported promptly, to the Industry Committee the time of arrival of each car of grapes at any railroad assembly point or cold storage assembly point. Each handler shall furnish, or authorize cold storage companies to furnish, to the Industry Committee the time of actual delivery to cold storage of each car of grapes controlled by him, including a statement as to whether such car was so delivered for the purpose of precooling preparatory to immediate shipment or for the purpose of storage.

(f) *Shipments from assembly points.* (1) The quantity of grapes which may

be released by the Industry Committee for shipment any day during a regulation period, established pursuant to paragraph (c) of this section, from all assembly points, shall be the total advisable quantity to be shipped that day, as determined by the Secretary. The first carload of grapes arriving at any assembly point shall be the first carload released for shipment from all assembly points on any particular day, and succeeding carloads shall be released for shipment in the order of time of arrival until the total quantity for the particular day has been released: *Provided*, That if the Industry Committee finds that the release of the advisable on any day results in the release for continued shipment of a quantity of grapes which is less than a carload, the said committee shall release, in addition to the advisable, a quantity of grapes sufficient to permit the continued shipment of a full carload of grapes; in which event, the said committee shall deduct from the advisable for the succeeding day a quantity of grapes equal to such amount released in excess of the advisable.

(2) Except as provided in the foregoing paragraph, the Industry Committee shall not release from assembly points a quantity of grapes in excess of the advisable for the respective day, as determined by the Secretary.

(3) The maximum time that cars may be held at assembly points shall be seventy-two (72) hours or such other time less than seventy-two (72) hours as may be prescribed by the Industry Committee and approved by the Secretary. Whenever any handler has one or more carloads of grapes at assembly points which have priority of shipment at a given time, and such handler also has one or more carloads of grapes at assembly points which do not have priority, such handler may substitute any carload without priority for any carload having priority.

(4) Any handler who has delivered grapes to a cold storage for the purpose of storage, except during a prohibition period established pursuant to paragraph (g) of this section, may, upon notification to the Industry Committee, have such grapes considered as available at cold storage assembly points when the grapes meet the requirement of arrival and are otherwise permitted to be released for shipment.

(g) *Prohibition of loading.* (1) Whenever the Industry Committee determines that the quantity of grapes at assembly points is or will be excessive, and it is advisable in order to effectuate the declared policy of the act to prohibit the loading of grapes for shipment to assembly points during a specified period, the Industry Committee shall recommend to the Secretary the establishment of a regulation period during which time loading of grapes for shipment to assembly points shall be prohibited. At

the time of making such recommendation, the Industry Committee shall determine and report to the Secretary (i) the daily shipments of grapes immediately preceding such recommendation; (ii) the estimated total quantity of grapes that will be enroute to assembly points and at assembly points on the day the prohibition of loading regulation is recommended to be effective; (iii) other information upon which such recommendation and reports are based; and (iv) such other information as the Secretary may request.

(2) Whenever the Secretary shall find from the recommendation, reports, and information submitted by the Industry Committee, or other information, that to prohibit the loading of grapes for shipment during a specified period will tend to effectuate the declared policy of the act, the Secretary shall prohibit for a period of forty-eight (48) hours or less the loading of grapes for shipment to assembly points: *Provided*, That there shall elapse not less than ninety-six (96) hours between the last day of one prohibition period established pursuant to the provisions of this paragraph, and the first day of the next succeeding prohibition period. No shipper shall, for a period of forty-eight (48) hours succeeding the termination of a prohibition period, load grapes for shipment in excess of the quantity loaded for shipment by such shipper during the period of forty-eight (48) hours immediately prior to the effective time of such prohibition period: *Provided*, That any shipper who has made no shipments from a particular district during the particular season before the beginning of a prohibition period, established pursuant to the provisions of this paragraph, may apply to the Industry Committee for exemption from such restrictions applicable after the termination of such prohibition period; and if the Industry Committee determines that said restrictions operate inequitably to said shipper in a particular district, the Industry Committee shall exempt such shipper from the restrictions applicable to loading grapes following a prohibition period.

(3) Grapes delivered to any cold storage assembly point during a prohibition period, established pursuant to this paragraph, shall not be shipped during any day of a regulation period, established pursuant to paragraph (c) of this section, unless the quantity of grapes eligible for release from railroad assembly points and cold storage assembly points on such day is less than the quantity of grapes advisable to be shipped on such day; and the release from cold storage for shipment shall be in the same order that such grapes were placed in storage and within the limits of the quantity of grapes available to be shipped that day less the quantity eligible for release from assembly points: *Provided*, That any quantity of such grapes in cold storage may be substituted for the same quan-

tity of grapes eligible to be released from assembly points.

(h) *Exemption for part cars.* A shipment of grapes which is not in excess of 300 standard packages, or equivalent thereof in weight, shall be exempt from regulations established pursuant to this section.*

§ 951.6 *Limitation of shipments by truck—(a) Limitation.* During each day of a prohibition of loading period established pursuant to § 951.5 hereof, and during each of the two days immediately following such prohibition period (which days are hereinafter in this paragraph referred to as the "limitation period"), no handler shall ship grapes by truck in excess of the average daily quantity of grapes which such handler shipped by truck during such period of time immediately preceding the establishment of such prohibition period, as shall be established by the Industry Committee and approved by the Secretary; except that if any such handler, on any day of such a limitation period, ships less than his daily average he may add such under-shipment to his subsequent shipments during such period: *Provided*, That a handler who ships by truck, and who has made no such shipments during a particular season prior to the beginning of a prohibition period, may apply to the said committee for a certificate (which shall be issued by the said committee in accordance with rules adopted by it and approved by the Secretary) which will permit such handler to ship by truck, during the applicable limitation period, an equitable quantity of grapes: *Provided, further*, That any such shipments which are not in excess of the quantity determined by the said committee and approved by the Secretary, or determined by the Secretary, shall be exempt from the provisions of this paragraph.

(b) *Reports.* Each handler shall report to the Industry Committee, in such manner and at such times as the Industry Committee shall prescribe, the quantity of grapes which he ships each day by truck during a period of regulation of daily shipments, established pursuant to section 951.5 hereof. The Industry Committee shall prescribe such procedure as it deems necessary and appropriate for the administration of this section and shall submit a report thereon to the Secretary for his approval.*

§ 951.7 *Reports.* For the purpose of enabling the Industry Committee to perform its functions hereunder, each handler shall furnish, or authorize any or all railroad, transportation, and cold storage agencies to furnish, to the confidential employees of the Industry Committee, complete information in such form and at such times and substantiated in such manner as shall be prescribed by the Industry Committee, with regard to each shipment of grapes. Such reports may include the number of cars ordered; the time of departure of each shipment of grapes; the time of arrival of each ship-

ment of grapes at railroad and cold storage assembly points; the name of the shipper; the car number; the number of packages of grapes or the billing weight thereof and the grade; the grower for whom such grapes are shipped; the point of origin; and the destination and any diversion of the shipment of any carload of grapes made through any or all agencies to any auction market. Such information shall be compiled by the confidential employee, and promptly made available in summary form to all handlers and other interested persons who request a copy thereof: *Provided*, That such compilation or summary shall not reveal the identity of the individual informants, shippers, and growers. Such confidential employee shall not disclose, to any person other than the Secretary, any information that may be obtained pursuant to this section except in the aforesaid manner.*

§ 951.8 *Compliance*. Except as otherwise specifically provided herein, no handler shall ship grapes, the shipment of which has been prohibited by the Secretary in accordance with the provisions hereof, and no handler shall ship grapes except in conformity with the provisions hereof.*

§ 951.9 *Right of the Secretary*. Any rules, regulations, or determinations of the Industry Committee which are submitted to the Secretary for his approval, pursuant to the provisions hereof, may be modified or changed by the Secretary prior to such approval, without further action thereof by the said committee.*

§ 951.10 *Grapes for charitable purposes*. Nothing contained herein shall be construed to authorize any limitation of the right on the part of any person to ship grapes for consumption by charitable institutions or for distribution by relief agencies; nor shall any assessment be levied on grapes so shipped. The Industry Committee may prescribe such regulations as may be deemed necessary by it to prevent grapes shipped for such purposes from entering the commercial fresh fruit channels of trade contrary to, or in violation of, the provisions hereof.*

§ 951.11 *Liability of Industry Committee members*. No member, alternate member, or employee of the Industry Committee shall be held liable, either individually or jointly with others, in any way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, or employee, except for acts of dishonesty.*

§ 951.12 *Agents*. The Secretary may, by a designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent

or representative in connection with any of the provisions hereof.*

§ 951.13 *Effective time and termination*—(a) *Effective time*. The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto and shall continue in force until terminated in one of the ways specified in this section.

(b) *Termination*. (1) The Secretary may at any time terminate the provisions hereof by giving at least one (1) day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operation of any or all of the provisions hereof whenever he finds that any such provision obstructs or does not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any current marketing period whenever he finds that such termination is favored by a majority of the growers who, during such current marketing period, have been engaged in the production of grapes for market: *Provided*, That such majority have, during such period, produced for market more than fifty (50) percent of the total volume of grapes produced for market during such period; but such termination shall be effective only if notice thereof is given on or before April 1 of such current marketing period.

(4) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination*. (1) Upon the termination of the provisions hereof, the members of the Industry Committee then functioning shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all funds and property then in the possession or under the control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(2) The trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements, or deliver all funds and property on hand, together with all books and records of the Industry Committee and the trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds and claims vested in the committee or the trustees pursuant hereto.

(3) Any funds collected for expenses pursuant to the provisions hereof and held by such trustees or such other person, over and above amounts necessary to meet outstanding obligations and the expenses incurred necessarily by the trus-

tees of such other person in the performance of their duties hereunder, shall, as soon as practicable after the termination hereof, be returned to the handlers pro rata in proportion to their contributions made pursuant hereto.

(4) Any person to whom funds, property, or claims have been delivered by the Industry Committee or its members upon direction of the Secretary, as provided in this paragraph, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon the members of the committee or upon the trustees.*

§ 951.14 *Duration of immunities*. The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.*

§ 951.15 *Separability*. If any provision hereof is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.*

§ 951.16 *Derogation*. Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.*

§ 951.17 *Amendments*. Amendments hereto may be proposed, from time to time, by the Industry Committee or by the Secretary.*

§ 951.18 *Effect of termination or amendment*. Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may arise in connection with any provision hereof or any regulation issued hereunder, or (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the United States, or Secretary, or of any other person with respect to any such violation.*

In witness whereof the Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this 17th day of August 1940, and declares this order to

be effective on and after 12:01 a. m. p. s. t., August 20, 1940.

[SEAL] GROVER B. HILL,
Acting Secretary.

[F. R. Doc. 40-3445; Filed, August 17, 1940;
1:12 p. m.]

TITLE 10—ARMY: WAR DEPARTMENT

CHAPTER I—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

PART 4—RELATIONS WITH AGENCIES OF PUBLIC CONTACT¹

§ 4.3 Privileges to commercial photographers.

(c) Photoplays.

(3) In order to insure uniformity and continuity of policy, all requests for Army cooperation in photoplays will be passed on by a board of officers known as the motion picture review board, consisting of 1 officer from the Public Relations Branch, Office of the Deputy Chief of Staff, War Department General Staff, 1 officer from The Adjutant General's Office, and 1 officer from the Office of the Chief Signal Officer. It will be the duty of this board to scan all scenarios submitted to it and recommend approval or disapproval of requests for Army cooperation. Approval will be granted only under conditions that— (R.S. 161; 5 U.S.C. 22)

[Par. 7b (3) (c) AR 600-700, April 18, 1935, as amended by sec. II, Cir. 81, WD, July 30, 1940]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 40-3444; Filed, August 17, 1940;
12:49 p. m.]

CHAPTER VII—PERSONNEL

PART 77—MEDICAL AND DENTAL ATTENDANCE

MEDICAL ATTENDANCE

Correction

Section 77.3 (g) appearing at page 2859 of the issue for August 16, 1940 (F. R. Doc. 40-3404; Filed, August 15, 1940; 9:43 a. m.) is corrected to read as follows:

(g) *The Surgeon General the final approving authority.* In all cases, both domestic and foreign, The Surgeon General, except as otherwise directed by him or as indicated in (e) above, will be the final authority respecting the employment of civilian medical attendance, and his approval of vouchers for such service will indicate his authorization up to the amount approved by him.

¹ Section 4.3 (c) (3) is amended.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

[T.D. 50213]

COAL, COKE, AND BRIQUETS FROM THE SOVIET UNION

EXTENSION OF COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND THE UNION OF SOVIET SOCIALIST REPUBLICS UNTIL AUGUST 6, 1941

AUGUST 16, 1940.

The President has proclaimed, effective August 6, 1940, the extension until August 6, 1941, of the commercial agreement between the United States and the Union of Soviet Socialist Republics proclaimed August 6, 1937 (T.D. 49118)¹ and previously extended until August 6, 1940 (T.D. 49677² and T.D. 49933).

In view of the foregoing, coal, coke made from coal, and coal or coke briquets produced in the Union of Soviet Socialist Republics, imported directly or indirectly therefrom, and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to December 31, 1940, inclusive, should be released as unconditionally free merchandise without any deposit on account of the tax provided for in I.R.C., Sec. 3423, by virtue of I.R.C., Sec. 3420. T.D. 50118³ is amended accordingly.

[SEAL]

W. R. JOHNSON,
Commissioner of Customs.

[F. R. Doc. 40-3462; Filed, August 19, 1940;
12:01 p. m.]

TITLE 24—HOUSING CREDIT

CHAPTER I—FEDERAL HOME LOAN BANK BOARD

PART 203—OPERATION

HIGHER PERCENTAGE LENDING ON HOME PROPERTIES BEYOND 50 MILES FROM THE HOME OFFICE OF AN ASSOCIATION

Be it resolved that no hearing having been requested in accordance with the provisions of subsection (d) of § 201.2 of the Rules and Regulations for the Federal Savings and Loan System after opportunity therefor was allowed in accordance with subsection (b) thereof, paragraph (3) of subsection (c) of § 203.12 of the Rules and Regulations for the Federal Savings and Loan System is hereby repealed and paragraph (4) of such subsection is hereby renumbered (3), effective August 16, 1940. (Secs. 5 (a), (c) of H.O.L.A. of 1933, 48 Stat. 132, Sec. 18, 49 Stat. 297; 12 U.S.C. 1464 (a), (c) and Sup.)

Adopted by the Federal Home Loan Bank Board on August 15, 1940.

[SEAL]

J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 40-3434; Filed, August 16, 1940;
2:08 p. m.]

¹ 2 F.R. 1386.

² 3 F.R. 2018.

³ T.D. 50118 appears at 5 F.R. 1188 as T.D. 50018.

CHAPTER III—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 301—INSURANCE OF ACCOUNTS

HIGHER PERCENTAGE LENDING ON HOME PROPERTIES BEYOND 50 MILES FROM THE PRINCIPAL OFFICE OF AN INSURED INSTITUTION

Be it resolved that no hearing having been requested in accordance with the provisions of subsection (d) of § 301.22 of the Rules and Regulations for Insurance of Accounts after opportunity therefor was allowed in accordance with subsection (b) thereof, the second sentence of paragraph (4) of subsection (d) of § 301.11 of the Rules and Regulations for Insurance of Accounts is hereby amended by substituting for the figure "66 $\frac{2}{3}$ " where it appears in said sentence the figure "75", effective August 16, 1940. (Secs. 402 (a), 403 (b), of N.H.A., 48 Stat. 1256, 1257, Sec. 23, 49 Stat. 298; 12 U.S.C. 1725 (a), 1726 (b), and Sup.)

Adopted by the Board of Trustees of the Federal Savings and Loan Insurance Corporation on August 15, 1940.

J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 40-3435; Filed, August 16, 1940;
2:08 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

CHAPTER II—CORPS OF ENGINEERS, WAR DEPARTMENT

PART 203—BRIDGE REGULATIONS¹

§ 203.167 *Mill Basin, Jamaica Bay, N. Y.; bridge (highway) on Belt Parkway, Borough of Brooklyn, New York City.* (a) The owner of or the agency controlling the drawbridge shall provide the appliances and the personnel necessary for the safe, prompt and efficient operation of the draw.

(b) Except as provided in (c) below, the draw shall be opened promptly when the signal hereinafter prescribed for the opening of the draw is received from an approaching vessel or other watercraft which cannot pass under the closed draw.

(c) On Sundays from May 15 to September 30, inclusive, and on Memorial Day, Independence Day and Labor Day, each year, the draw shall not be required to open to vessels between the hours of 12:00 noon (E. D. S. T.) and 9:00 p. m. (E. D. S. T.); *Provided*, That during the period from two hours before to one hour after the time of predicted high tide for the locality, the bridge shall be opened promptly upon proper signal for the passage of vessels unable to pass under the bridge; *Provided further*, that the draw shall be opened promptly at all times to vessels owned, controlled, or employed by the United States Govern-

¹ Section 203.167 is added.

ment or by the Departments of the City of New York.

NOTE: For the purpose of these regulations, high tide at the bridge shall be deemed to occur 15 minutes later than the time of high tide for Sandy Hook as given in the tide tables for the United States, published by the United States Department of Commerce, U. S. Coast and Geodetic Survey. The time stated in the tables is Eastern Standard Time and one hour should be added thereto to convert to Eastern Daylight Saving Time.

(d) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signals*. United States Government or Departments of the city of New York vessels: Four distinct blasts of a whistle, horn or megaphone, or four loud and distinct strokes of a bell.

For all other vessels: Three distinct blasts of a whistle, horn or megaphone, or three loud and distinct strokes of a bell sounded within a reasonable hearing distance of the bridge.

(ii) *Visual signals*. To be used in conjunction with sound signals when conditions are such that sound signals may not be heard.

A white flag by day, a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals*—(i) *By bridge operator*—*Sound signals*. Draw to be opened immediately: Same as call signal.

Draw cannot be opened immediately, or, if open, must be closed immediately: Two long distinct blasts of a whistle, horn, or megaphone or two loud and distinct strokes of a bell, to be repeated at regular intervals until acknowledged by the vessel.

Visual signals. To be used in conjunction with sound signals when conditions are such that sound signals cannot be heard.

Draw to be opened immediately: A white flag by day or green light at night swung up and down vertically a number of times in full sight of the vessel.

Draw cannot be opened immediately, or, if open must be closed immediately: A red flag by day, a red light by night swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(ii) *By the vessel*. Vessels or other watercraft having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately, or, if open, must be closed immediately, shall acknowledge said signal by one long blast followed by one short blast, or by swinging to and fro horizontally a red flag by day or a red light by night.

(e) Automobiles, trucks, and other vehicles, vessels or other watercraft shall not be stopped or manipulated in a manner hindering or delaying the operation of the draw, but all passage over the drawspan or through the draw opening shall be in a manner so as to expedite both land and water traffic.

(f) A copy of these regulations shall be conspicuously posted on both the upstream and downstream sides of the bridge in such a manner that it can be easily read at any time.

(g) These regulations shall take effect and be in force on and after August 1, 1940. (Sec. 5, River and Harbor Act, Aug. 18, 1894, 28 Stat. 362; 33 U.S.C. 499) [Regs., July 31, 1940 (E.D. 6371 (New York City—Mill Basin) 9/4)]

[SEAL]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 40-3443; Filed, August 17, 1940; 12:48 p. m.]

TITLE 46—SHIPPING

CHAPTER II—UNITED STATES MARITIME COMMISSION

[General Order No. 33]

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND CONTRACTORS

PART 262—MINIMUM-WAGE, MINIMUM-MANNING, AND REASONABLE WORKING CONDITIONS

§ 262.50 *Exclusion of cadets and cadet officers from minimum manning and wage scales and working conditions*. The Commission having determined, on advice of its General Counsel, that Cadets and Cadet Officers in training on vessels receiving an operating subsidy do not come within the purview of Title III, Section 301, of the Merchant Marine Act, 1936, General Order No. 15 (46 CFR 262.1 to 262.33 incl.) and the supplements thereto are hereby amended to exclude cadets and cadet officers from the provisions thereof. (§ 262.50 issued under the authority contained in section 301 (a), 49 Stat. 1992; 46 U.S.C. Sup. 1131 (a)) [The source of § 262.50 is paragraph 1 of General Order No. 33, United States Maritime Commission, August 13, 1940. * * * The remaining paragraphs of this order are omitted because they are administrative in nature.]

By Order of the United States Maritime Commission.

[SEAL]

W. C. PEET, Jr.,
Secretary.

AUGUST 13, 1940.

[F. R. Doc. 40-3449; Filed, August 19, 1940; 10:59 a. m.]

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 1—RULES OF PRACTICE AND PROCEDURE¹

AMENDMENT RELATING TO PRACTITIONERS

The Commission on August 15, 1940, effective immediately, amended § 1.38 by

¹ F.R. 3341.

designating the existing rule as subsection (a) and by adding an additional subsection reading as follows:

(b) No member, officer or employee of the Commission (1) whose active service with the Commission has terminated but who is receiving pay while on annual leave not taken prior to separation from such active service, or (2) who is in any other leave status, shall appear as attorney or participate in the preparation or handling of any matter before, or to be submitted to, the Commission.

(Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i))

By the Commission.

[SEAL]

JOHN B. REYNOLDS,
Acting Secretary.

[F. R. Doc. 40-3448; Filed, August 19, 1940; 10:38 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Dockets Nos. 607-FD, 610-FD]

IN THE MATTER OF THE APPLICATIONS OF TOM DAVIS AND RUSSELL DODD FOR EXEMPTION

NOTICE OF AND ORDER FOR HEARING

Applications, pursuant to the provisions of the second paragraph of section 4-A of the Bituminous Coal Act of 1937, having been filed with the Bituminous Coal Division by the above-named parties:

It is ordered, That hearings on such matters be held on the 12th day of September 1940, at 10 o'clock in the forenoon of that day at a hearing room of the Bituminous Coal Division, Federal Building, Columbia, Missouri.

It is further ordered, That D. C. McCurtain or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearings in such matters. The officer so designated to preside at such hearings is hereby authorized to conduct said hearings separately or to consolidate them, to administer oaths and affirmations, to examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant* or material to the inquiry, to continue said hearings from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of appropriate orders in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearings is hereby given to such Applicants and to any other person who may have an interest in such proceedings. Any person desiring to be

heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Bituminous Coal Division on or before September 4, 1940.

The matters concerned herewith are in regard to applications filed by Tom Davis and Russell Dodd, for exemption pursuant to the second paragraph of section 4-A of the Bituminous Coal Act of 1937 and to an Order of the National Bituminous Coal Commission in Docket 71-FD,¹ which Order has been adopted and ratified as an Order of the Bituminous Coal Division.

The mine of the Applicant, Tom Davis, is located at Stephens, Callaway County, Missouri, and exemption is claimed for coal sold and consumed in Boone, Callaway, and Audrain Counties, Missouri.

The mine of the Applicant, Russell Dodd, is located at Sturgeon, Boone County, Missouri, and exemption is claimed for coal sold and consumed in Boone, Cole, Callaway, and Audrain Counties, Missouri.

Both applicants claim that their sales of coal in the above-mentioned counties are intrastate transactions which do not in any manner directly affect interstate commerce in bituminous coal.

Dated, August 17, 1940.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 40-3439; Filed, August 17, 1940;
11:25 a. m.]

DEPARTMENT OF AGRICULTURE.

Rural Electrification Administration.

[Administrative Order No. 501]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 9, 1940.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	Amount
Illinois 1041B1 Jefferson	\$263,000
Indiana 1092C2 Jackson	75,000
Iowa 1067B1 Sac	65,000
Maine 1010A1 Franklin	145,000
Missouri 1042B1 Caldwell	65,000
New Jersey 1004C1 Monmouth	40,000
New Mexico 1009C1 Curry	48,000
Texas 1096B1 Victoria	107,000
Vermont 1008G2 Washington	25,000
Virginia 1038B1 Loudoun	105,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 40-3458; Filed, August 19, 1940;
11:53 a. m.]

¹ 3 F.R. 291.

[Administrative Order No. 502]

AMENDMENTS OF ALLOCATIONS OF FUNDS FOR LOANS

AUGUST 10, 1940.

I hereby amend Administrative Order No. 16, dated September 3, 1936, and Administrative Order No. 137, dated September 7, 1937, by changing the project designation "Alabama 19 Limestone" appearing therein to read "Alabama 7019A1 Athens Public."

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 40-3459; Filed, August 19, 1940;
11:52 a. m.]

[Administrative Order No. 503]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 12, 1940.

By virtue of the authority vested in me by the provisions of section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	Amount
Iowa 1007C1 Marshall	\$193,000
Minnesota 1089A1 Pine	162,000
Virginia 1034B1 Lee	215,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 40-3460; Filed, August 19, 1940;
11:52 a. m.]

[Administrative Order No. 504]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 12, 1940.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	Amount
Georgia 1051C1 Newton	\$50,000
Tennessee 1001F1 Meigs	182,000
Texas 1078B1 Cherokee	78,000
Wisconsin 1019E1 Chippewa	103,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 40-3461; Filed, August 19, 1940;
11:52 a. m.]

Surplus Marketing Administration.

PROCLAMATION OF THE SECRETARY OF AGRICULTURE MADE WITH RESPECT TO THE BASE PERIOD TO BE USED FOR THE PURPOSE OF A MARKETING AGREEMENT AND ORDER REGULATING THE HANDLING OF TOKAY GRAPES GROWN IN THE STATE OF CALIFORNIA

By virtue of the authority vested in the Secretary of Agriculture by Public Act

No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, it is hereby found and proclaimed that, with respect to Tokay grapes grown in the State of California, the purchasing power of such grapes during the pre-war period, August 1909-July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such grapes, but the purchasing power of such grapes can be satisfactorily determined from available statistics of the Department of Agriculture for the period August 1919-July 1929. The period August 1919-July 1929 is, therefore, hereby declared and proclaimed to be the base period to be used in determining the purchasing power of grapes grown in the State of California for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such grapes.

In witness whereof the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 17th day of August 1940.

[SEAL] GROVER B. HILL,
Acting Secretary.

[F. R. Doc. 40-3446; Filed, August 17, 1940;
1:12 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued under Section 14 of the said Act and § 522.5 of Regulations Part 522, as amended, to the employers listed below effective August 20, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of §§ 522.13 or 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and

published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F.R. 2088), and as amended October 12, 1939 (4 F.R. 4226).

Hosiery Order, August 22, 1939 (4 F.R. 3711).

Apparel Order, October 12, 1939 (4 F.R. 4225).

Knitted Wear Order, October 24, 1939 (4 F.R. 4351).

Textile Order, November 8, 1939 (4 F.R. 4531), as amended, April 27, 1940 (5 F.R. 1586).

Glove Order, February 20, 1940 (5 F.R. 714).

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Farwest Garments, Inc., 419 First Avenue South, Seattle, Washington; Apparel; Men's & Boys' Woolen Jackets; 25 learners (75% of the applicable hourly minimum wage); October 24, 1940.

Hollywood-Vogue Belts, 420 South San Pedro Street, Los Angeles, California; Apparel; Belts, 2 learners (75% of the applicable hourly minimum wage); October 24, 1940.

Jacob Miller's Sons Company, 16th and Reed Streets, Philadelphia, Pennsylvania; Apparel; Shirts, 25 learners (75% of the applicable hourly minimum wage); October 24, 1940.

Jasper Glove Company, Inc., 611 Main Street, Jasper, Indiana; Glove; Work Gloves; 10 learners; October 24, 1940.

Dinberg Glove Corporation, 215 Gilbert Street, Ogdensburg, New York; Glove, Leather Dress Glove; 10 learners; October 24, 1940.

Boreal Manufacturing Company, 1523 Main Street, Marinette, Wisconsin; Gloves; Work Gloves; 15 learners; October 24, 1940.

Signed at Washington, D. C., this 19th day of August 1940.

MERLE D. VINCENT,
Authorized Representative
of the Administrator.

[F. R. Doc. 40-3456; Filed, August 19, 1940; 11:38 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4105]

IN THE MATTER OF HILLS BROTHERS COMPANY, A CORPORATION, T. A. SUREN, AN INDIVIDUAL, PROPRIETOR OF E. SUREN, AN ENGLISH PRIVATE COMPANY; JOSEPH ESSAYE, AN INDIVIDUAL, AGENT AND UNITED STATES REPRESENTATIVE OF T. A. SUREN, PROPRIETOR OF E. SUREN; HUND STEINHARDTER AND LESTER NORDLINGER, CO-PARTNERS, TRADING AS STEINHARDTER & NORDLINGER; UNITED AFRICA COMPANY, LTD., AN ENGLISH PRIVATE COMPANY; W. A. WEST, AN INDIVIDUAL, AGENT AND UNITED STATES REPRESENTATIVE OF UNITED AFRICA COMPANY, LTD.; BALFOUR GUTHRIE & Co., LTD., A CORPORATION;

PERSIAN GULF PRODUCTS COMPANY, A CORPORATION; AND ANDREW WEIR, AN INDIVIDUAL, PROPRIETOR OF ANDREW WEIR & Co., AN ENGLISH PRIVATE COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of August, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That John J. Keenan, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, September 4, 1940, at nine o'clock in the forenoon of that day (eastern standard time) in the Hotel St. George, Brooklyn, New York.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3437; Filed, August 17, 1940; 10:49 a. m.]

[Docket No. 4233]

IN THE MATTER OF MITCHELL F. BRICE, AN INDIVIDUAL, TRADING UNDER THE FIRM NAME AND STYLE OF PARR SALES COMPANY

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13) as amended by the Robinson-Patman Act approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Tanner-Brice Company, Inc., a corporation organized and existing under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at Vidalia, Georgia, is engaged in a general wholesale merchandise business and operates a chain of retail grocery stores under the trade name of Sims Stores, the principal ones of which are located at Vidalia, Swainsboro, Dublin, Douglas

and Baxley, Georgia. Practically all the merchandise sold by the Sims Stores is purchased from the Tanner-Brice Company, Inc.

PAR. 2. The respondent, Mitchell F. Brice, an individual residing in the City of Vidalia, Georgia, is now and has been since June 19, 1936, president, secretary-treasurer, director and a major stockholder in Tanner-Brice Company, Inc. Said respondent Mitchell F. Brice owns and controls 83 per cent of the outstanding capital stock, and actively manages and conducts the business of said Tanner-Brice Company, Inc.

PAR. 3. Respondent Mitchell F. Brice is a member of a firm engaged in the brokerage business under the trade name Parr Sales Company, maintaining an office and place of business in Vidalia, Georgia.

The Parr Sales Company is a firm owned by respondent Mitchell F. Brice and Francis K. Graham. Said Francis K. Graham is a former employee of the Tanner-Brice Company, Inc., and is now employed by the said Mitchell F. Brice to render services to various other enterprises owned and controlled by respondent Mitchell F. Brice.

PAR. 4. Tanner-Brice Company, Inc., places orders for a substantial portion of the goods, wares and merchandise, particularly foodstuffs, required in the ordinary conduct of its business with sellers who are in most cases located in states of the United States other than the state in which said Tanner-Brice Company, Inc., is located, through the brokerage firm of Mitchell F. Brice and Francis K. Graham trading as Parr Sales Company. As a result of the transmission and execution of said orders, as aforesaid, goods, wares and merchandise, particularly foodstuffs, are, in the case of each such order, and in a continuous succession of such orders, sold, transported and delivered by one or more of such sellers across state lines to the Tanner-Brice Company.

PAR. 5. In the course and conduct of the buying and selling transactions hereinabove referred to resulting in the transportation and delivery of goods, wares and merchandise, particularly foodstuffs, in interstate commerce from one or more sellers to said Tanner-Brice Company, Inc., sellers have transmitted and paid, and do transmit and pay, to the brokerage firm of Mitchell F. Brice and Francis K. Graham, trading as the Parr Sales Company, brokerage fees or commissions, the same being a certain percentage (usually from 2½ per cent to 5 per cent) of the sales prices of such purchases.

Since June 19, 1936, sellers have paid brokerage fees and commissions to, and the same have been received by, the brokerage firm of Mitchell F. Brice and Francis K. Graham, trading as Parr Sales Company, upon the purchases of Tanner-Brice Company, Inc., in the manner hereinabove described in substantial amounts.

PAR. 6. In all of the transactions of purchase and sale hereinabove referred to, since June 19, 1936, the respondent Mitchell F. Brice has been the agent, and has acted in fact for and in behalf, of the Tanner-Brice Company, Inc.

PAR. 7. A substantial amount of the brokerage fees and commissions received by the brokerage firm of Mitchell F. Brice and Francis K. Graham trading as Parr Sales Company in the manner aforesaid since June 19, 1936, has been paid to Francis K. Graham as compensation for services rendered by Francis K. Graham in his respective capacities as an employee of the various enterprises owned and controlled by respondent Mitchell F. Brice.

PAR. 8. The transmission and payment of brokerage fees and commissions by sellers to said respondent Mitchell F. Brice as a member of the brokerage firm trading as the Parr Sales Company, and the receipt and acceptance of such brokerage fees and commissions by said respondent Mitchell F. Brice upon the purchase of the Tanner-Brice Company, Inc., in the manner and form hereinabove set forth, is in violation of the provisions of subsection (c) of Section 2 of the act described in the preamble hereof.

Wherefore, the premises considered, the Federal Trade Commission on this 13th day of August, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, Mitchell F. Brice, an individual, trading under the firm name and style of Parr Sales Company, respondent herein, that the 20th day of September, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of

defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 13th day of August, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3438; Filed, August 17, 1940;
10:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 1-2814]

IN THE MATTER OF CITY OF CORDOBA 7% EXTERNAL SINKING FUND GOLD BONDS OF 1927, DUE AUGUST 1, 1957 (STAMPED ASSENTED TO READJUSTMENT PLAN DATED JULY 3, 1934)

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of August, A. D. 1940.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and

Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 7% External Sinking Fund Gold Bonds of 1927, due August 1, 1957 (Stamped Assented to Readjustment Plan dated July 3, 1934), of City of Cordoba; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, September 11, 1940, at the office of the Securities and Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3429; Filed, August 16, 1940;
12:03 p. m.]

[File No. 30-55]

IN THE MATTER OF IRWIN T. GILRUTH AND CHARLES A. MACDONALD AS TRUSTEES OF PUBLIC UTILITIES SECURITIES CORPORATION

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of August, A. D. 1940.

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on September 3, 1940, at 9:45 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearings will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby

authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 28, 1940.

The matter concerned herewith is in regard to an application filed pursuant to Section 5 (d) of the Public Utility Holding Company Act of 1935 by Irwin T. Gilruth and Charles A. McDonald as Trustees of Public Utilities Securities Corporation, a registered holding company, for an order declaring it not to be a holding company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3430; Filed, August 16, 1940;
12:04 p. m.]

[File No. 70-118]

IN THE MATTER OF LONE STAR GAS CORPORATION AND LONE STAR GASOLINE COMPANY

NOTICE REGARDING FILING SUBJECT TO
RULE U-8

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of August, A. D. 1940.

Notice is hereby given that a declaration and applications have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named parties.

Notice is further given that any interested person may, not later than August 31, 1940, at 1:00 P. M., E. S. T., request the Commission in writing that a hearing be held on such matters, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration and applications, as filed or as amended, may become effective, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration and applications, which are on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Lone Star Gasoline Company proposes to issue and sell 10,000 shares of its \$100 par common stock to its parent, Lone Star Gas Corporation, at par. The latter will credit the open account of Lone

Star Gasoline Company, amounting to \$652,550, and will pay the balance of \$347,450 to it in cash.

Pursuant to direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3431; Filed, August 16, 1940;
12:04 p. m.]

[File No. 70-136]

IN THE MATTER OF CENTRAL U. S. UTILITIES COMPANY, PENNSYLVANIA INVESTING CORPORATION, ARIZONA GENERAL UTILITIES COMPANY, ARKANSAS GENERAL UTILITIES COMPANY, LOUISIANA PUBLIC UTILITIES CO., INC., PANHANDLE PUBLIC SERVICE COMPANY, TEXAS GENERAL UTILITIES COMPANY, SOUTHLAND PUBLIC SERVICE COMPANY

NOTICE REGARDING FILING SUBJECT TO
RULE U-8

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of August, A. D. 1940.

Notice is hereby given that a declaration or application (or both), has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named party or parties; and

Notice is further given that any interested person may, not later than August 31, 1940, at 4:30 P. M., E. S. T., or 1:00 P. M., E. S. T., if such date be a Saturday, request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Southland Public Service Company, a newly formed corporation, is to acquire through a series of transfers the assets of Arizona General Utilities Company, Arkansas General Utilities Company, Louisiana Public Service Company, Inc., Panhandle Public Service Company, and Texas General Utilities Company, all of which are public utility subsidiaries of Central U. S. Utilities Company. This transaction is pursuant to a contract between Central U. S. Utilities Company and Dallas Rupe & Son, a Texas corporation, syndicate managers. As part of the transaction \$2,250,000 principal

amount of First Mortgage 4½% Bonds due September 1, 1965 of Southland Public Service Company will be sold to various life insurance companies. Southland Public Service Company will borrow \$500,000 on its 3½% five year unsecured note from The National City Bank of New York, and will issue 149,800 shares of common stock of par value of \$5 per share, in addition to the 200 shares of common stock already issued. Not less than 50% of the common stock of Southland Public Service Company will be offered for sale at a public offering by Strauss Securities Company of Chicago, Illinois, and Dallas Rupe & Son of Dallas, Texas, together with such other security dealers as they may determine, at a price of approximately \$9 per share. The remainder of the common stock will be distributed to the members of the Dallas Rupe & Son syndicate.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3428; Filed, August 16, 1940;
12:03 p. m.]

[File No. 1-2548]

IN THE MATTER OF PROCEEDING UNDER SECTION 19 (A) (2) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, TO DETERMINE WHETHER THE REGISTRATION OF AUSTIN SILVER MINING COMPANY COMMON STOCK, \$1 PAR VALUE SHOULD BE SUSPENDED OR WITHDRAWN

ORDER FOR HEARING AND DESIGNATING OFFICER TO TAKE TESTIMONY

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of August, A. D. 1940.

I

It appearing to the Commission:

That Austin Silver Mining Company, a corporation organized under the laws of the State of Nevada, is the issuer of Common Stock, \$1 par value; and

That said Austin Silver Mining Company registered such security on the New York Curb Exchange, a national securities exchange, by filing with the said exchange and with the Commission, pursuant to section 12 (b) and (c) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended, promulgated by the Commission thereunder, on or about April 4, 1936, an application on Form 10, and on or about March 1, 1937, an application on Form 8-A, which application on Form 10 became effective May 9, 1936, and which application on Form 8-A became effective March 31, 1937, both applications having remained in effect to and including the date hereof; and

It further appearing to the Commission:

That Rule X-13A-1, promulgated pursuant to section 13 of said Securities Ex-

change Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule X-13A-2, promulgated pursuant to section 13 of the Securities Exchange Act of 1934, as amended, did and does prescribe Form 10-K as the annual report form to be used for the annual reports of all corporations except those for which another form is specified, and that no other form was or is specified for use by the said Austin Silver Mining Company; and

That said Rule X-13A-1 requires that said annual report be filed not more than 120 days after the close of each fiscal year or such other period as may be prescribed in the instruction book applicable to the particular form; that the instructions to Form 10-K do not prescribe any period other than such 120 days; and that pursuant to said Rule X-13A-1 the annual report must be filed within this initial period unless the registrant files with the Commission a request for an extension of time to a specified date within six months after the close of the fiscal year; and

It further appearing to the Commission:

That said Austin Silver Mining Company has a fiscal year ending December 31; that the annual report for its latest fiscal year ended December 31, 1939, was due to be filed not later than April 30, 1940; that no request for extension was filed by said Austin Silver Mining Company; and that no annual report for the fiscal year ended December 31, 1939, was filed by July 1, 1940, within the maximum period allowable under the rule; and

II

The Commission having reasonable cause to believe:

That said Austin Silver Mining Company has failed to comply with said section 13 and said Rules X-13A-1 and X-13A-2 in that it has failed to file within the time prescribed for filing its annual report on Form 10-K for the fiscal year ended December 31, 1939; and

III

It being the opinion of the Commission that the hearing herein ordered to be held is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Securities Exchange Act of 1934, as amended;

It is ordered, Pursuant to section 19 (a) (2) of said Act, that a public hearing be held to determine whether Austin Silver Mining Company has failed to comply with section 13 of the Securities Exchange Act of 1934, as amended, and the rules, regulations and forms promulgated by the Commission thereunder in the respects set forth above; and if so, whether it is necessary or appropriate

for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of the Common Stock, \$1 par value, of said Austin Silver Mining Company on said New York Curb Exchange;

It is further ordered, Pursuant to the provisions of section 21 (b) of the Securities Exchange Act of 1934, as amended, that for the purpose of such hearing, Adrian C. Humphreys, an officer of the Commission, is hereby designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law;

It is further ordered, That the taking of testimony in this hearing begin on the 9th day of September, 1940, at 10:00 a. m. at the Regional Office of the Securities and Exchange Commission 120 Broadway, New York, New York, and continue thereafter at such time and place as the officer hereinbefore designated may determine.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3452; Filed, August 19, 1940; 11:16 a. m.]

[File No. 1-716]

IN THE MATTER OF CINCINNATI ADVERTISING PRODUCTS COMPANY COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its offices in the City of Washington, D. C. on the 16th day of August, A. D. 1940.

The Cincinnati Advertising Products Company, pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the Cincinnati Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 12, 1940, at the office of the Securities & Exchange Commission, 1370 Ontario Street, Cleveland, Ohio, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That James C. Gruener, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3454; Filed, August 19, 1940; 11:17 a. m.]

[File No. 1-667]

IN THE MATTER OF NEW YORK RAPID TRANSIT CORPORATION KINGS COUNTY ELEVATED RAILROAD COMPANY 4% FIRST MORTGAGE GOLD BONDS DUE 1949

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of August, A. D. 1940.

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the Kings County Elevated Railroad Company 4% First Mortgage Gold Bonds due 1949 of New York Rapid Transit Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, September 10, 1940, at the office of the Securities & Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3455; Filed, August 19, 1940; 11:17 a. m.]

[File No. 34-7]

IN THE MATTER OF MIDLAND UTILITIES
COMPANY

ORDER POSTPONING HEARING TO LATER DATE

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of August, A. D. 1940.

An application having been duly filed with the Commission by Melvin L. Emrich, Robert P. Minton, and Leo J. Sheridan as a committee of holders of debentures of Midland Utilities Company, pursuant to section 11 (g) of the Public Utility Holding Company Act of 1935, for a report on a proposed plan of reorganization for Midland Utilities Company, a registered holding company, which is presently the subject of reorganization proceedings pursuant to section 77B of the Bankruptcy Act in the United States District Court for the District of Delaware; and

The Commission by order dated July 5, 1940, having ordered that a hearing¹ on such matter under the applicable provisions of said Act and the Rules of the Commission thereunder be held on July 22, 1940 at 10 o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and having further ordered that the said hearing be limited to a hearing as to the value of the assets of Midland Utilities Company; and

The Commission, on the joint application of Hugh M. Morris, Trustee of the Estate of Midland United Company, and Clarence A. Southerland and Jay Samuel Hartt, Trustees of the Estate of Midland Utilities Company, having postponed the said hearing from July 22, 1940 to August 19, 1940 at the same time and place, and Hugh M. Morris Trustee of the Estate of Midland United Company, and Clarence A. Southerland and Jay Samuel Hartt, Trustees of the Estate of Midland Utilities Company, having now filed a joint application requesting that the said hearing be further postponed for at least one month; and

The Commission having considered the said joint application and it appearing to the Commission: that the United States District Court for the District of Delaware has appointed a Special Master to hold day to day hearings upon alleged claims between the Estates of Midland United Company and Midland Utilities Company and to render to the said Court at the earliest possible date his report in the matter; that the hearings on said claims are now proceeding from day to day and the attorneys for the Trustee of the Estate of Midland United Company and for the Trustees of the Estate of Midland Utilities Company are daily engaged in said hearings; that therefore

the said Trustees are unable to be present with their attorneys at the hearing herein now set for August 19, 1940; and that the said joint application to postpone the hearing herein has been filed in good faith; and

The attorney for Melvin L. Emrich, Robert P. Minton, and Leo J. Sheridan as a committee of holders of debentures of Midland Utilities Company, applicants herein, having consented to a further postponement of the hearing herein:

It is ordered, That the hearing herein be, and it hereby is, further postponed to September 11, 1940, at 10 o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in room 1102 will advise as to the room where such hearing will be held.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.[F. R. Doc. 40-3450; Filed, August 19, 1940;
11:18 a. m.]

[File No. 34-43]

IN THE MATTER OF PUBLIC SERVICE COM-
PANY OF INDIANA, TERRE HAUTE ELEC-
TRIC COMPANY, INC., CENTRAL INDIANA
POWER COMPANY

ORDER POSTPONING HEARING TO LATER DATE

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of August, A. D. 1940.

An application pursuant to section 12 (e) of the Public Utility Holding Company Act of 1935 and Rule U-12E-4 adopted thereunder for a report on the proposed plan of consolidation of Public Service Company of Indiana, Terre Haute Electric Company, Inc., Central Indiana Power Company, Dresser Power Corporation, and Northern Indiana Power Company, and a declaration pursuant to section 12 (e) of the Act and Rules U-12E-3 and U-12E-5 adopted thereunder with respect to the solicitation of consents to the said plant of consolidation having been duly filed with this Commission by the above named parties, all of which are subsidiaries of Hugh M. Morris, Trustee of the Estate of Midland United Company, a registered holding company; and

The Commission by its order dated July 3, 1940, having ordered that a hearing¹ on such matter under the applicable provisions of said Act and Rules of the Commission thereunder be held on July 25, 1940 at 10 o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C.; and

The Commission, on the joint application of Hugh M. Morris, Trustee of the Estate of Midland United Company, and Clarence A. Southerland and Jay Samuel Hartt, Trustees of the Estate of Midland Utilities Company, having postponed the said hearing from July 25, 1940 to August 22, 1940 at the same time and place, and Hugh M. Morris, Trustee of the Estate of Midland United Company, and Clarence A. Southerland and Jay Samuel Hartt, Trustees of the Estate of Midland Utilities Company, having now filed a joint application requesting that the said hearing be further postponed for at least one month; and

The Commission having considered the said joint application and it appearing to the Commission: that the United States District Court for the District of Delaware has appointed a Special Master to hold day to day hearings upon alleged claims between the Estates of Midland United Company and Midland Utilities Company and to render to the said Court at the earliest possible date his report in the matter; that the hearings on said claims are now proceeding from day to day and the attorneys for the Trustee of the Estate of Midland United Company and for the Trustees of the Estate of Midland Utilities Company are daily engaged in said hearings; that therefore the said Trustees are unable to be present with their attorneys at the hearing herein now set for August 22, 1940; and that the said joint application to postpone the hearing herein has been filed in good faith; and

The attorneys for Public Service Company of Indiana, Terre Haute Electric Company, Inc., and Central Indiana Power Company, applicants herein, having consented to a further postponement of the hearing herein:

It is ordered, That the hearing herein be, and it hereby is, further postponed to September 16, 1940 at 10 o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing room clerk in room 1102 will advise as to the room where such hearing will be held.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.[F. R. Doc. 40-3451; Filed, August 19, 1940;
11:18 a. m.]

[File No. 70-138]

IN THE MATTER OF HOME GAS COMPANY

NOTICE REGARDING FILING SUBJECT TO
RULE U-8

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of August, A. D. 1940.

Notice is hereby given that an application has been filed with this Commis-

¹ 5 F.R. 2499.¹ 5 F.R. 2498.

sion pursuant to the Public Utility Holding Company Act of 1935 by the above named party; and

Notice is further given that any interested person may, not later than September 3, 1940 at 4:30 P. M., E. S. T., or 1:00 P. M., E. S. T., if such date be a Saturday, request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such application, as filed or as amended, may become effective or may be granted, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Home Gas Company, a wholly-owned subsidiary of Columbia Gas & Electric Corporation, a registered holding company and, in turn, a subsidiary of The United Corporation, a registered holding company, proposes to buy all the assets, except cash, of Eastern Pipe Line Company, also a wholly-owned subsidiary of Columbia Gas & Electric Corporation, for \$262,801.79, such funds to be advanced by Columbia Gas & Electric Corporation to Home Gas Company on open account; whereupon Eastern Pipe Line Company will be dissolved and its then remaining assets, consisting entirely of cash, distributed to Columbia Gas & Electric Corporation in payment of debt and as a liquidating dividend.

The applicant has designated Section 10 of said Act applicable to the proposed transaction.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3453; Filed, August 19, 1940;
11:16 a. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS THURSDAY, AUGUST 15, 1940

Important. Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Virgin Islands.....	10	0
2. Puerto Rico.....	677	47
3. Hawaii.....	161	17
4. Alaska.....	26	9
5. California.....	2,458	893
6. Texas.....	2,553	1,065
7. Louisiana.....	921	443
8. Michigan.....	2,122	1,047
9. Arizona.....	191	98
10. South Carolina.....	762	432
11. Mississippi.....	881	526
12. Arkansas.....	813	497
13. Alabama.....	1,160	713
14. New Jersey.....	1,771	1,095
15. Ohio.....	2,913	1,806
16. Georgia.....	1,275	811
17. Kentucky.....	1,146	741
18. Oklahoma.....	1,050	704
19. North Carolina.....	1,389	945
20. New Mexico.....	185	128
21. Tennessee.....	1,147	881
22. Nevada.....	40	32
23. Illinois.....	3,344	2,688
24. Wisconsin.....	1,288	1,096
25. Indiana.....	1,419	1,256
26. Connecticut.....	704	647
27. Florida.....	643	595
28. Vermont.....	158	147
29. Idaho.....	195	187

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS—Continued		
30. Delaware.....	104	100
31. Oregon.....	418	406
32. North Dakota.....	298	293
33. New Hampshire.....	204	202

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1940
IN EXCESS			
34. Maine.....	349	350	+9
35. Rhode Island.....	301	302	+8
36. Kansas.....	824	832	+7
37. Utah.....	223	226	+9
38. New York.....	5,517	5,622	+88
39. West Virginia.....	758	773	+23
40. Pennsylvania.....	4,221	4,316	+21
41. Wyoming.....	99	102	+5
42. Missouri.....	1,590	1,650	+45
43. Massachusetts.....	1,862	1,939	+83
44. Minnesota.....	1,124	1,179	+28
45. Washington.....	685	719	+27
46. Montana.....	236	251	+21
47. Iowa.....	1,083	1,167	+26
48. South Dakota.....	304	329	+11
49. Colorado.....	454	500	+48
50. Nebraska.....	604	766	+21
51. Virginia.....	1,061	2,074	+3
52. Maryland.....	715	2,148	+26
53. District of Columbia.....	213	8,886	+30

GAINS	
By appointment.....	353
By transfer.....	10
Total.....	363
LOSSES	
By separation.....	53
By transfer.....	119
Total.....	172
Total appointments.....	54,678

NOTE: Number of employees occupying apportioned positions who are excluded from the apportionment figures under Sec. 3, Rule VII, and the Attorney General's Opinion of August 25, 1934, 17,023.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and
Chief Examiner.

[F. R. Doc. 40-3447; Filed, August 19, 1940;
9:55 a. m.]

